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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,378	04/20/2004	Bruno Domange	0584-1017	3776
466	7590	11/17/2005	EXAMINER KING, BRADLEY T	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			ART UNIT 3683	PAPER NUMBER

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/827,378

Applicant(s)

DOMANGE, BRUNO

Examiner

Bradley T. King

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6,8-10,15 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,8-10,15 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 6, 8-10, 15, and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "the plunger pistons" on line 11. There is insufficient antecedent basis for this limitation in the claims.

Claim 1 recites ""means for limiting the passage of fluid" in the second to last indent of the claim. It is not clear how this "means" relates to the previously recited "means for limiting leakage".

Claim 2 recites "means for maintaining the two chambers at substantially the same pressure". It is not clear if the "means" corresponds to the conduit structure of claim 1, or if additional structure is required.

Claim 8 recites "between several thousand and several million centistokes". It is not clear from the disclosure or the claim language what is encompassed by this limitation.

Claim 10 recites "a volume that is filled with air". It is not clear if this limitation relates to the "air volume" of claim 1.

Regarding claim 21, it is not clear how the limitations are intended to further define the "means for limiting leakage" of claim 1.

Claim 23 recites "absorbs stresses up to 1000 kN". It is not clear if the "up to" is intended to define a range ending at 1000 kN or if the claim requires stresses of 1000 kN.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6, 8, 10, 15, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US# 4768627).

Taylor discloses a damper including; a plunger piston 89 sliding inside a guiding cylinder a longitudinal direction, the plunger piston comprising, over a part of a length of said plunger piston, a piston ring 97 sliding with a slight clearance inside a main chamber provided in said cylinder, said ring comprising calibrated through-orifices 104 for a high-viscosity fluid, such that the variations in ambient temperature have little effect on damping efficiency, the fluid filling said chamber on both sides of said ring, said cylinder comprising, on either side of said main chamber 94-95 in the longitudinal direction, two secondary chambers 79-80 that the plunger pistons enter, said secondary chambers being filled, at least in part, by said high-viscosity fluid and comprising means 90-93 for limiting the leakage of fluid from the main chamber toward the secondary

chambers, and for facilitating the leakage of fluid secondary chambers toward the main from at least one of chamber, wherein the damper comprises a conduit 81 provided in the piston and opening 82-83 into each of the secondary chambers, wherein the damper further comprises at least one through-path 92-93 provided in the cylinder in which is inserted means 90-91 for limiting the passage of fluid from said main chamber toward the secondary chambers, and wherein one of the secondary chambers contains an air volume (note region in 87 outside of the bellows 61) and is connected to the other secondary chamber, such that the high viscosity fluid may circulate freely between the two secondary chambers. See figure 3. Taylor lacks the explicit disclosure of the particular viscosity of the fluid. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any viscosity of fluid desired for the device of Taylor since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Through trial and error, an artisan in the art seeking to meet a variety of fluid dampening results and characteristics could select a variety of viscosities which selection would have been within the routine skill of the artisan working in the vibration and shock absorber technology.

Regarding claim 2, see means 81-83.

Regarding claims 6 and 15, the material of the piston and bearings, it would have been obvious to one having ordinary skill in the art at the time invention was made to select the material of the piston and bearings of Taylor as desired since it has been held to be within the general skill of a worker in the art to select a known material on the

basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claim 23, the damper of Taylor is capable of absorbing stresses falling in the range of 0-1000kN. See the background of the invention which implies use to absorb forces of 3000 pounds. Also note *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955) regarding the obviousness of scaling, size and proportions.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US# 4768627) as applied to claim 1 above, and further in view of JP 09-059921.

Taylor, as applied to claim 1 above, discloses all the limitations of the instant claims with exception to the disclosure of the damper being connected to a cable. It is well known in the art and further taught by JP 9-59921 to utilize dampers to damp vibrations in cables and associated structures. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the damper of Taylor for a cable structure as taught by JP 9-59921 as an obvious utilization of the device, thereby providing proper damping and durability to the structure.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BTK


JAMES MCCLELLAN
PRIMARY EXAMINER
11/14/05